A Place to Call Home

Addressing Opposition to Homes for People with Mental Illness in Tennessee Neighborhoods

A collaborative project developed by

The Tennessee Department of Mental Health and Developmental Disabilities Office of Housing Planning and Development and
The Tennessee Fair Housing Council

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Table of Contents

Introduction

Tennessee has an acute need for more housing for people with mental illness. Policymakers know it, advocates know it, consumers know it, and housing providers know it.

According to the Tennessee Department of Mental Health and Developmental Disabilities (TDMHDD) Office of Housing Planning and Development (OHPD), the impact of insufficient housing and support services for people diagnosed with a mental illness is great. Specifically, persons with mental illness go through systems of help — hospitals, mental health centers, homeless shelters, faith-based and social service agencies — looking for supports and a stable home. Unfortunately, safe and affordable places for them to call home are rare.[1]

According to the Tennessee Housing Development Agency's 2000 Consolidated Plan, Tennessee needs 448 group home beds, 1,242 one-bedroom apartments, 622 two-and three-bedroom apartments and 297 specialized group home beds for people with mental illness.

Examples of this housing shortage abound. Jails, hospitals and shelters all report increases in persons with mental illness who are cycling and re-cycling through their networks. People with mental illness, their family members, caseworkers and representatives all are frustrated by the low availability and questionable conditions of the housing where people with mental illness often must reside.

According to the TDMHDD, it is clear that home cannot truly exist for people with mental illness without an increase in adequate housing, enhancements of current community housing options, coupled with coordinated and effective community services support and delivery.

The lack of safe, decent, quality, permanent and affordable housing options for people with mental illness is a major problem in Tennessee, according to the TDMHDD. For example:

- People with mental illness receiving SSI benefits ($512 average monthly income) are among the lowest income households in the country.
- There is not a single housing market in the United States where a person with SSI benefits can afford to rent even a modest efficiency apartment.
- In Tennessee, the average cost of a one-bedroom apartment is 80% of the SSI monthly benefit.
- Despite a period of robust economic expansion, the affordable housing stock in Tennessee continues to shrink.

- Rents are rising at twice the rate of general inflation.
- For every 100 households at or below 30% of median income, nationally, there were only 36 units both affordable and available for rent.
- One in five persons in the criminal justice system is diagnosed with a mental illness.
- As of February 2001, more than 180 people in Tennessee's regional mental health institutes could be discharged if they had appropriate supported community housing placement options.

To create an effective and sustaining positive change in this situation, TDMHDD-OHPD began the Creating Homes Initiative (CHI). The CHI involves $4.5 million of state funds to develop housing for people with mental illness. Millions of federal and state dollars already have been leveraged to create 1,236 housing units. The goal of the program is to develop 2,005 housing options by 2005. While the Department focused primarily on funding and on finding partners to develop the housing, it was caught somewhat by surprise by the barriers many of its partners encountered in the process of finding sites.

Unfortunately, some of the entities that seek to develop such housing have encountered and will encounter hostile neighborhood organizations, local politicians and city governments that hinder the projects through zoning ordinances, frivolous litigation and other strategies. This opposition is collectively known as NIMBY, which stands for Not In My Back Yard. This discrimination against people with mental illness, and against non-profit and publicly funded housing for them, threatens to divert significant amounts of funding toward costly and unnecessary litigation or even to derail some projects altogether.

At least three recent examples illustrate the degree to which discrimination threatens the development of much-needed housing for people with disabilities:

- In Dyersburg, Tennessee, a neighborhood association sued Professional Counseling Services (PCS), a non-profit organization, seeking to enjoin it from locating a group home for people with mental illness. In a recent court hearing, a judge allowed the development of the home to go forward but ordered PCS to allow a member of the neighborhood association to take part in the selection of residents for the home, a violation of the residents' confidentiality rights. The case is on appeal.

  Further, the members of the neighborhood association still oppose

the home and as recently as March 24, 2001, wrote a letter to PCS' board of directors and presented a petition with 169 signatures. "Pacification is not an option with the Majority (sic) of the (homeowners association)," the neighbors wrote. "You did win in the court on Statue of Law (sic), but you did not win the hearts and minds of the majority of this neighborhood."

- In Puryear, Tennessee, neighbors across the street from a proposed group home for people with mental illness convinced the current owner of the home not to sell it, forcing the non-profit to find a house elsewhere.
- In Nashville, a proposed group home for people with mental illness faced stiff opposition from members of the predominantly African American community in which it was placed. One neighbor said at a community meeting, "They may locate there, but they're not going to be happy there," hinting that the group home and its residents may suffer some harassment from the neighbors once the residents moved in.

  Two State legislators also attended the meeting. While one reminded the neighbors that the Fair Housing Act and state law give the group home the right to locate in the neighborhood, one of the legislators promised to introduce a bill that would impose a public hearing requirement for housing for people with mental disabilities. That requirement, as discussed further below, would probably be illegal under the Fair Housing Act.
- In Nashville, the city has taken some legislative steps to accommodate group homes for people with disabilities by defining a "family" as including group homes for up to eight people with disabilities. This is apparently an attempt to allow most group homes to bypass the normal rezoning required to have more than three unrelated people living together in a neighborhood zoned for single families. However, the same zoning ordinance excludes from this definition people with mental illness, reflecting a special prejudice against people with certain disabilities. Though the illegal zoning provision cannot legally be enforced because it conflicts with federal and state law, it nevertheless can have a chilling effect on the willingness of operators of group homes for people with mental illness to locate in Nashville because they very reasonably anticipate having extra administrative hurdles to clear simply because of the nature of their clients' disabilities.

- The Memphis City Council in August 2001 passed a moratorium on the issuance of use and occupancy permits for "group shelters," "transitional homes" and "personal care homes" that was to be in effect until December 2001.

There is, unfortunately, no reason to believe this kind of opposition to housing for people with disabilities will stop. Developers of this housing can expect a range of responses from complaints to elected officials to litigation. While opponents of this housing often use zoning as a weapon, other barriers can arise even where zoning issues are not relevant.

This guide is not intended to be an exhaustive guide to NIMBY issues or a silver bullet that will make all NIMBY problems go away, but it should help providers of housing for people with disabilities anticipate, understand and deal with the obstacles they are likely to encounter when seeking sites for such housing. This guide will cover the following major areas:

- **Legal issues:** How the Fair Housing Act protects housing for people with disabilities.
- **Myths about housing for people with disabilities:** How "property values," "crime" and objections to deinstitutionalization have been used as obstacles
- **Successful and unsuccessful approaches to siting housing for people with disabilities:** What processes might be appropriate in a given situation?
- **Index of frequently asked questions:** A quick reference that will, we hope, take you quickly to the information you need.

The authors, on behalf of the Tennessee Fair Housing Council, would like to acknowledge the support and participation of the Tennessee Department of Mental Health and Developmental Disabilities, especially that of Commissioner Elisabeth Rukeyser and Marie Williams, Director for Housing Planning and Development. The Council and the Department have an invaluable partnership that we hope will lower the barriers to housing for people with disabilities throughout the state.

Chapter 1

The Fair Housing Act and Housing for People with Disabilities

Federal Law

Statutory Law

Before 1988, the laws regarding discrimination in housing against people with disabilities was a patchwork of state laws and local ordinances. Providers of housing for people with disabilities throughout the state. Before 1988, the laws regarding discrimination in housing against people with disabilities was a patchwork of state laws and local ordinances. Providers of housing for people with disabilities had some success in fighting local governments' discriminatory zoning decisions by challenging them on constitutional grounds in federal court.[2] Others could sue on the basis of laws in their own states or cities.

However, in 1988 Congress passed the Fair Housing Amendments Act of 1988,[3] which amended the federal Fair Housing Act[4] to add protection from discrimination on the basis of "handicap" (which is legally synonymous with "disability," the term we will use throughout this guide) and familial status, which means the presence or anticipated presence of children under 18 in a household.

The Act defines "handicap" as:

1. A physical or mental impairment which substantially limits one or more of a person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.[5]

For purposes of this discussion, there are two major substantive provisions with special relevance to the siting of housing for people with disabilities. First, the Act broadly prohibits discrimination against people

with disabilities by making it illegal to refuse to rent, sell or negotiate; to discriminate in "terms and conditions"; to lie about the availability of housing; or to "otherwise make unavailable or deny" housing to them. Second, the Act places an affirmative responsibility on local governments to provide a "reasonable accommodation" to housing for people with disabilities, usually in the form of a zoning change where necessary. We will examine these two broad categories in more detail.

Prohibitions Against Discriminatory Behavior

The Fair Housing Act prohibits a range of practices that would prevent a person with a disability from obtaining housing or engaging in a housing-related transaction because of that person's disability. Simply stated, the law does not allow housing providers to shun people simply because they have a disability. Individuals are protected from such practices as discriminatory advertising, lying about the availability of housing, discriminatory financing or insurance underwriting, intimidation and harassment.

In the context of housing for groups of people with disabilities, this kind of discrimination has taken the form of private restrictive covenants or zoning regulations that specifically prohibit housing for people with disabilities. For example, laws that single out and disadvantage housing for people with disabilities can be violations of the Fair Housing Act. Similarly, an insurance company would be in violation of the Act if it refused to insure a home simply because people with disabilities would be living there. We will examine further examples of these kinds of discrimination below.

Reasonable Accommodation

A "reasonable accommodation" is a modification or waiver of "rules, policies, practices, or services, when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling."[6] Under this theory, housing for people with disabilities is entitled to a favored status, because it must reasonably be accommodated in ways that housing for people without disabilities need not be.[7]

On an individual basis, a reasonable accommodation might entail an apartment complex allowing a blind person to have a guide dog even if the complex has a policy against pets. But as it applies to the siting of housing

for people with disabilities, the Act's requirement of a reasonable accommodation has been held to entitle housing for people with disabilities to locate in an area zoned for single-family homes, even though other unrelated groups, such as students, may legally still be barred from such areas.[8]

Case Law Involving Discrimination Against Housing for People with Disabilities

As one might expect, much litigation followed passage of the 1988 amendments to the Fair Housing Act as providers of housing for people with disabilities sought to challenge such barriers to siting as "single-family" zoning that prevents a group home from locating where only groups of related people had been permitted;[9] spacing requirements prohibiting housing for people with disabilities within a certain distance of existing housing;[10] special safety and health rules that apply only to group homes;[11] burdensome procedural requirements for group homes;[12] state enforcement of private restrictive covenants,[13] and protests by neighbors. We will examine each of these major areas of litigation in more detail.

Single-Family Zoning

Plaintiffs seeking to challenge the discriminatory zoning decisions of municipalities have had broad success in court. One of the most significant recent cases was *City of Edmonds v. Oxford House, Inc.*[14] The group home[15] in this case was occupied by ten to twelve recovering drug addicts. The home had been denied permission to remain in a neighborhood zoned for single families, which Edmonds' zoning ordinance defined as an unlimited number of people who are related or up to five unrelated adults. Oxford House sued when the city failed to make a reasonable accommodation by allowing the group home to remain in the neighborhood.

The city relied on language in the Fair Housing Act that exempted "reasonable occupancy restrictions" from scrutiny, but the Supreme Court ruled in favor of Oxford House, finding that Edmonds' rule was not an occupancy restriction, since occupancy restrictions "ordinarily apply uniformly to all residents of all dwelling units. Their purpose is to protect health and safety by preventing dwelling overcrowding."[16] On the other

hand, under the restriction Edmonds tried to use to keep Oxford House out of a single-family residential zone, "(s)o long as they are related 'by genetics, adoption, or marriage,' any number of people can live in a house."[17]

Other cases have involved the failure of municipalities to waive zoning regulations because of political pressure from neighborhood groups. For example, in *Oxford House, Inc. v. Town of Babylon*,[18] the city in question had sought to evict an Oxford House facility from a single-family zone and denied Oxford House's request for a reasonable accommodation in the form of a modification in the city's definition of "family." The court held in that case that Oxford House's request was reasonable and that the city's failure to accommodate it was a violation of the Fair Housing Act.

Unless a home for people with disabilities is entitled to move into a neighborhood as a matter of right because it is consistent with the existing zoning, providers should seek a special-use permit, variance or some other change in zoning before locating. In *United States v. Village of Palatine*,[19] a group home sought to locate in a single-family residential zone without first seeking a variance, fearing that the required public hearing would ignite a "firestorm of vocal opposition" that would be harmful to the residents. The operators of the home argued that the routine administrative hoops placed before them constituted illegal discrimination and that the city should waive them as a reasonable accommodation. However, the court held that the home's interest in shielding its residents from public protest "does not outweigh the Village's interest in applying its facially neutral [zoning] law to all applicants for special use approval."[20]

The court also held, however, that a home need not pursue a zoning variance when the variance process is required of housing for people with disabilities but not other housing, when the procedure is applied in a discriminatory way, or when the process is "manifestly futile"[21] as evidenced by the fact that a city may be in the habit of rejecting requests for zoning relief because of community opposition.

A municipality is not required to grant a variance or some other zoning relief in every case. Representatives of a group home must show that a reasonable accommodation is "necessary" and that without the accommodation it would be denied the opportunity to enjoy equal housing in the community of its choice. Further, the municipality can reject a request for zoning relief if it would constitute a "fundamental alteration" or "undue

burden." The opposition of neighbors is not enough justification. However, in one case a court held that a city could reject a rezoning request if the housing sought to be located would cause traffic congestion or demands on drainage or sewerage.[22]

Dispersion Requirements

One of the bedrock principles behind the Fair Housing Act's protections for housing for people with disabilities is that the residents should be able to live in an integrated, residential setting of their choice. However, this principle often has been defeated by municipal rules that require a certain amount of space between facilities (otherwise known as dispersion requirements).

Most courts, among them the federal circuit that includes Tennessee, have held that cities may not impose dispersion requirements on housing for people with disabilities,[23] reasoning that such quotas would not be permissible if applied against racial minorities and are no more valid when applied against people with disabilities.

Special Safety and Procedural Rules for Group Homes

Because of general fears about community safety, and (possibly false) concerns about resident safety, municipalities have often either barred housing for people with disabilities altogether or grudgingly allowed group homes and other arrangements on the condition that they comply with onerous safety and other procedures not required of other congregate living arrangements. Courts that have dealt with this issue have generally struck such requirements down as discriminatory.

1. Measures to Protect the Safety of the Community

In *Bangerter v. Orem City, Utah*,[24] the city had imposed two conditions on a group home for mentally retarded adults. First, the city told the home it must give assurances that the home would be supervised 24 hours a day. Second, the city ordered the home to establish a community advisory panel to deal with complaints from neighbors. The city imposed no such requirements on any other communal living arrangement, and the court held that these requirements amounted to intentional

discrimination under the Fair Housing Act that must be "justified by public safety concerns."[25]

However, such concerns must be reasonable and not predicated on stereotypes about people with disabilities. Though the Fair Housing Act does not protect individuals "whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others,"[26] municipalities may not base decisions about housing for people with disabilities simply because of an assumption that people with disabilities are dangerous. In *Township of West Orange v. Whitman*,[27] a court rejected the township's and local homeowners' claims that they should be consulted before housing for people with mental illness is allowed to locate in their neighborhoods or should receive information on the histories of people placed in this housing.

2. Measures to Protect the Safety of the Residents

Municipalities may not prescribe burdensome safety requirements for housing for people with disabilities unless they are specifically tailored to the specific population in the housing. In *Marbrunak, Inc., v. City of Stow, Ohio*,[28] a Sixth Circuit case,[29] the city's zoning code included "nearly every safety requirement that one might think of as desirable to protect persons handicapped by any disability - mental or physical."[30] The result, the court said, was "an onerous burden which has the effect of limiting the ability of these handicapped individuals to live in the residence of their choice."[31] The court held that the city could impose stricter fire and safety standards on the home only if that protection is "demonstrated to be warranted by the unique and specific needs and abilities of those handicapped persons."[32] Otherwise, the home should have no stricter requirements than that of a single-family residence.

Courts in other cases have relied heavily on the reasoning in

Marbrunak to strike down similar "life safety" requirements imposed on homes for people with disabilities but not traditional single-family homes.[33]

Restrictive Covenants

Covenants that restrict neighborhoods to residential uses only are vulnerable to attack under the Fair Housing Act where they are used as a barrier to housing for people with disabilities. In at least one case, *Martin v. Constance*,[34] the court held that neighbors violated the Fair Housing Act when they sued the state to bar a group home, claiming the home would be in violation of a neighborhood covenant restricting homes to single-family occupancy. The court held the neighborhood had discriminatory intent when it sued to stop the home; that the covenant had a discriminatory effect on housing for people with disabilities; and that the neighborhood failed to reasonably accommodate the group home when it filed suit to enforce its covenants.

The court's decision relied heavily on legislative history and the regulations promulgated by the U.S. Department of Housing and Urban Development, which prohibit "(e)nforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status, or national origin."[35]

Protests by Neighbors

Community members have a First Amendment right to oppose the development of housing for people with disabilities or other housing to which they object. Such protected activity includes petitioning elected officials and filing non-frivolous lawsuits to stop the development of such housing.[36] However, neighbors *do not* have the right to engage in direct harassment of residents or other activity not protected by the First Amendment. They may not physically obstruct construction or trespass in an attempt to slow or halt development.

State Law

State law that developers of housing for people with disabilities will

find most helpful is a statutory provision that reads as follows:

> *For the purposes of any zoning law in Tennessee, the classification "single family residence" includes any home in which eight (8) or fewer unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and may include three (3) additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped or physically handicapped persons residing in the home.*[37]

This provision *overrides any local zoning regulations to the contrary*[38] and means that developers of group homes for eight or fewer people can generally locate in any residential neighborhood as a matter of right without seeking relief from zoning regulations.

However, the single-family classification does not apply to "to such family residences wherein handicapped persons reside when such residences are operated on a commercial basis."[39] In 1982, the Tennessee Court of Appeals sought to delineate the boundaries of commercial operation in Nichols v. Tullahoma Open Door, Inc.:[40]

> [T]he statutory scheme did not seek to exclude a group home not operating for profit … on the basis that it was operating as a commercial business simply because defendant received subsidies and rent to repay the mortgage loan and to pay staff members. No commercial purpose for the group home has been shown and we are of the opinion that the home is not operating on a commercial basis.[41]

The import of this case is that providers of housing for people with mental illness who operate on a non-profit basis will probably be able to take advantage of the aforementioned state zoning law. However, for-profit providers are still protected by the Fair Housing Act and have every right to request zoning relief as a reasonable accommodation.

The court in the Nichols case also rejected a challenge to the statute's constitutionality, holding that the statute was not an unconstitutional taking of property,[42] did not usurp local governments' zoning powers[43] and did not violate equal protection by granting rights to people with disabilities that were not granted to others.[44]

In cases involving housing for more than eight people with disabilities, the rules regarding reasonable accommodation under federal law (set out at the end of Section I.B.1. above) apply.

Chapter 2

The Myths about Housing for People with Disabilities

NIMBY disputes can appear anywhere — the inner city; new suburban subdivisions; older, established areas; integrated and homogenous communities — but there are a few core concerns that appear regardless of the character of the neighborhood. The most commonly cited issues are the effect of group homes on property values and crime, "fair share," and the value of deinstitutionalization.

Most residents' concerns are based on misinformation, largely built on myths about mental illness. Concern about falling property values can only occur if people with mental illness are seen as a "problem," a threat, as a group that will cause upheaval if "allowed into" a community. Michael Dear laments that beliefs about mental illness haven't changed significantly in the past twenty years, believing that the attitudes described in a 1972 study still hold true: most people still see "strange or disturbed behavior, particularly when it is socially visible,…as a threat to public safety."[45] Media images, particularly the news, can reinforce these beliefs through the sensationalizing of isolated incidents.

Starting from the inaccurate premise that people with mental illness are a burden on a community, most neighborhoods will fight group homes with a set of beliefs unsupported by evidence.

In reality, group homes have little to no negative impact on a neighborhood's property values or on its crime rates. "Fair share" arguments also rest on the assumption that the people with mental illness are a burden; local governments, however, may also take this point of view and target communities without political power. Finally, the public's response to deinstitutionalization also needs to be addressed. Even if all of the other concerns vanish, the neighborhood may still be resistant because it questions the value of community-based treatment.

Property Values

The most commonly stated concern of residents near a proposed group home is that property values will decline. For most people, a home is their biggest investment — for many, the only significant one. Homeownership provides not only a place to live but is seen as a guarantee of future financial stability. It shouldn't be surprising that neighborhood residents will take action if they believe there is a risk to their investment.

However, the fears that group homes and other social services cause a decline in property values is not supported by the experience of neighborhoods throughout the United States. Studies on the effects of group homes on property values have consistently shown that property values not only do not decline, but in some cases increase.

Daniel Lauber's influential 1986 study of Illinois found no negative effect on property values. He examined 2,261 properties in Illinois for two years before and after group homes were introduced. Lauber's findings: property values rose 79% in neighborhoods with group homes, but only 71% in the control group.[46] Similarly, a 1990 review of 25 studies conducted throughout the United States found none that showed a decrease in property values or increased turnover.[47]

Studies throughout the United States and Canada show the same effect — property values in neighborhoods with group homes increased or decreased at the same rates as those without group homes. Wolpert's study of 42 neighborhoods found, "without exception, the location of a group home or community residential facility for mentally disabled people does not adversely affect property values or destabilize a neighborhood."[48]

In contrast to the hundreds of studies that found no negative effect, the number of studies that have found decreases is in the single digits. However, even these studies often show that group homes can't be singled out as the predominant factor in valuation. For example, one study speculated that the reason for the drop was "an initial overreaction to the group homes establishment" — for example, panic selling — and that these initial decreases are eventually corrected. Intriguingly, the same study found that those neighborhoods protesting a group home found their property values dropping an additional 7% compared to those without protests.[49]

Another study that found a mix of increasing and decreasing values concluded that group homes weren't "a certain predictor or cause" of value changes, citing instead that the issue is far more complex, with property

values determined by "prevailing neighborhood real estate valuation trends, economic recessionary forces, the location of industrial sites or major transportation highways, public school closing/opening, nearby positive or negative occurrences, felt increases/decreases in crime, increases/decreases in vacancies, etc."[50] The presence of group homes is only one of a wide variety of factors that can determine the value of any particular property, and should not be given particular importance.

Though neighborhood residents' concerns about property values are sincere, there is little support for those fears. The consensus among researchers, as well as the experience of communities across the country, shows that group homes do not lower property values.

Crime

The second most commonly stated concern is that group homes increase crime in nearby areas. This idea rests largely on the popularly held yet baseless belief that all people with mental illness are dangerous. While research indicates there is an association between some forms of mental illness and violence,[51] several studies have shown that the public grossly overestimates the danger, with the Surgeon General reporting the public overestimating violence by a factor of 2.5.[52]

Part of this misconception comes from not understanding how people with mental illness find themselves in the criminal justice system. People with mental illness are often arrested and imprisoned, not because they are dangerous but because of a lack of treatment options. According to Michael Dear, communities "blocking facility developments . . . may actually perpetuate the conditions that they themselves find so disconcerting."[53] Dear's conclusion is further supported by a consensus among researchers that people with mental illness who are receiving treatment are "no more violent than others in the community [are]."[54] In addition, residential group homes have rigorous standards for clients, keeping those with violent tendencies out of residential treatment facilities for the safety of the neighborhood and of other clients.

These conclusions are supported by a variety of studies from the past few decades that consistently demonstrate that group homes do not increase crime in their neighborhoods.

Schonfeld found in a wide-ranging examination of 363 group homes that crime does not increase with the introduction of group homes for

people with mental illness.[55] CRISP's 1990 summary of 58 studies of group homes and treatment facilities found the same thing.[56] Lauber's 1986 Illinois study found, however, "the crime rate for residents of these homes was lower than that of the general population."[57]

The argument that group homes introduce people with mental illness into a community is flawed — they are already there. Within any community live individuals with depression, substance abuse, personality disorders, developmental delays, schizophrenia — and these, because they are hidden or unacknowledged, often go untreated. Group homes provide a continuum of care and a stable environment that leads to a greater chance of recovery from mental illness than those who remain behind closed doors, suffering silently along with their families.

The belief that group homes for people with mental illness bring crime into a neighborhood is not only not supported by the evidence, but it is a flawed conclusion given the prevalence of mental illness and other disorders already existing in our communities.

Motives for Deinstitutionalization

Neighborhoods protesting group homes also question the reasons for and value of deinstitutionalization. Their concerns usually take two forms: 1) questioning the financial motives of the group home's operator, and 2) expressing doubt about the value of deinstitutionalization.

Opponents will often charge that the group home is purely a money-making venture, and will usually cite the dollar amount a home will receive for providing housing. Myra Piat, in a study of three neighborhoods in Canada, was surprised to find that many protesters weren't aware that the homes were *non-profit*.[58] Therefore, it may prove useful to demonstrate to concerned neighbors the costs involved in acquiring and maintaining a well-supervised, well-maintained home with the services necessary to help residents reenter into the larger community. In addition, cost comparisons between inpatient care at a mental health institute — which range from $300 to $400 per day — and the dramatically lower cost of group homes, may help increase the community's understanding of the positive financial impact group homes can have on the state's budget.

However, this argument can turn on itself. Opponents who accept that group homes are more cost-effective may carry this into a belief that the State is deinstitutionalizing simply to save money. In Piat's study,

neighborhoods harbored doubts about the ability of people with mental illness to reintegrate into a community, believing that residents "were unable and unwilling to integrate, the group home developers did not intend to integrate the residents, and integration did not benefit the community or the group home residents."[59] In contrast to the other neighborhood concerns outlined here — property values, crime, and the motivations of group home operators — which can be allayed through masses of research, neighborhood doubts about deinstitutionalization require a more complex response, which may need to be tailored to the specific organization creating the group home. Clearly defined, concrete examples of success in community integration; the developer's program for encouraging these successes; and the value of integration will need to be clearly articulated. This will not only help in responding to the doubts of the community, but in clarifying the goals of the organization, as well.

Happy Endings

The experience of other communities with group homes has shown that the effects most often cited by opponents clearly do not occur. Diana Antos Arens interviewed 75 people who lived in a Long Island neighborhood that fought the introduction of a group home. The results: after two years, the "overwhelming majority agreed that the residents are good neighbors; they have had no problems; and the residences had no adverse effects on property values."[60]

Otto Wahl found similar results, noting that one-quarter of the residents of the neighborhood he studied were unaware there was a group home nearby. Those who were aware saw no negative impact on property values, crime, or safety. Most were satisfied with the home in their neighborhood, and found that the results were far better than they had anticipated.[61]

The experience of a variety of communities has shown that the issues most commonly raised in opposition to the siting of a group home have no factual basis. The community's fears may certainly be sincere — and should be treated as such — but some advocates[62] believe part of the task of siting is to educate people in the surrounding area about the realities of mental illness and the ethical and practical implications of deinstitutionalization.

Chapter 3

Approaches to Siting Group Homes and Housing Options

While the evidence dispelling the myths surrounding of group homes is clear, approaches to siting are as varied as neighborhoods. While some advocates believe a low-profile, matter-of-fact approach is best, others argue for community involvement from the earliest stages.

Even within these camps, however, there is disagreement. Recently, two housing advocacy groups found their disagreements so strong that a jointly published fair housing guide listed their differing positions side by side on the same page, with the rationale for each.[63]

It is beyond the scope of this guide to solve these disagreements. Instead, it will outline issues to be considered in developing a specific plan for a specific siting.

The varying approaches grow out of thirty years of siting history, concisely outlined by Michael Dear.[64] Early advocates usually worked with one of two strategies: a low-profile approach, in which a group home was secretly sited, with the hope that it would be accepted once its presence became known. The risks of this approach are obvious. Others were more public in siting, using a high-profile strategy of notifying and involving the neighborhood to gain acceptance. The risk: giving opponents enough information to mount a campaign to keep the facility out of the neighborhood.

Fair Share

As a result of well-organized neighborhood opposition, group home operators have often looked for less risky locations, often in inner-city neighborhoods without political organization and with less strict zoning laws. This, of course, led to concentration, which some believed worked against the central tenet of community-based care. It has also led to accusations against group home operators that they were engaging in race-

based “targeting” of inner city communities, which already had several mental health treatment facilities.

The response in some cities was the development of spacing requirements and “fair share” guidelines, which continue to be legally contested territory. “Fair share” statutes in the form of dispersal requirements are a clear violation of the Fair Housing Act. To deny a group home entry into a particular neighborhood is discriminatory on its face.

However, many advocates encourage a “fair share” approach that doesn’t legally limit the siting of group homes, but instead encourages scattered siting. They maintain that community-based care should be in a residential community, providing clients a setting that helps them to re-enter everyday life, and that a high concentration of social service centers can work against this. For example, in St. Paul, Minnesota, an operator tried to create 21 group homes within a block and a half;[65] advocates for scattered siting disapproved by supporting spacing requirements to help maintain a neighborhood setting for the benefit of clients and the surrounding area.

“Fair share” advocates believe such guidelines also help in increasing the number of communities available for siting. Fair share can provide a tool to open doors into communities that might otherwise be closed off to group homes and other social service facilities.

However, other advocates believe the assumptions behind “fair share” are destructive because the term itself implies that social service facilities are a burden, an undesirable addition to a neighborhood — a perception based on the myths of mental illness.

With this premise at work, they claim fair share guidelines could also be used to discriminate against people with mental illness by limiting possible siting locations. Spacing requirements limit the ability of group home operators to locate facilities freely, especially in the case of non-profit entities in search of affordable housing stock, interfering not only with the creation and development of group homes but actively discriminating against people with mental illness.

The authors of this guide believe that a far better solution to perceived overconcentration of housing for people with disabilities in low-income neighborhoods is a system of financial supports that enable developers of such housing to buy properties in all kinds of neighborhoods. When real estate prices are less of a factor in site selection, dispersal can occur

naturally without possibly illegal government restrictions on the further development of group homes in certain areas.

Approaches to Siting

Housing advocates and providers disagree about many of these issues, but there are at least four things they do agree on:

Group homes are free to locate in neighborhoods of their choosing, just as other citizens are.

- Know the neighborhood.
- Be prepared for opposition.
- Not every approach will work in every neighborhood.

Researchers have noted that NIMBY disputes are becoming more frequent and more organized.[66] The following sections suggest considerations to make in developing a plan to deal with the possibility of neighborhood opposition.

Low-Profile Approach

A low-profile siting keeps community contact at a minimum. In attempting to strike a balance between the wishes of a community to be involved in decision-making and the rights of an individual to be free of housing discrimination, this approach gives more emphasis to individual freedom. Assuming no zoning relief is necessary, low-profile, autonomous approaches rest on the belief that a housing provider may locate a facility "by right," because people with mental illness, like any other residents, should not have to seek the neighborhood's approval to move in. It is also built on the experience of other neighborhood-based group homes, where the fears of residents were replaced with an acceptance that comes from familiarity.

This approach requires working with local officials in adhering to the law — building codes, variances, and other requirements — but only as far as any other homeowner might.

Keeping a low profile does not, however, mean ignoring a community. Advocates strongly advise that a plan be developed to deal with potential opposition, guidelines for which are found in the following section on high-profile sitings.

Matter-of-fact entry into a neighborhood still requires that the operator not resort to subterfuge, and that honest replies are given to honest questions. A group home requires a long-term, open relationship with its host community. However, this approach is built upon the simple legal fact that a home's residents cannot be excluded from a neighborhood, and that they can legally exercise the same rights and expectations as their neighbors.

A low-profile siting also spares group home residents from public scrutiny and public criticism, which few people would tolerate in their own lives. People with mental illness are guaranteed the same rights to privacy and confidentiality that are to be expected in a free society.

There are sound reasons for pursuing a low-profile siting approach. It can help in avoiding extensive frivolous NIMBY legal battles, especially if the operator works closely with local officials to ensure that laws are carefully followed. And even if NIMBY disputes arise, some researchers have noted that they often dissipate rapidly after a public hearing on the proposal.

However, there are risks. A community can see this as "sneaking" into a neighborhood, with the implication that the group home is doing something that it couldn't get away with openly. This can create an atmosphere of distrust and suspicion that will require effort to dispel.

High-Profile Approach

The high-profile approach is based on collaboration with the host neighborhood, often starting before the property is purchased.

The premise is that neighborhoods fear what they don't understand; therefore, a campaign of education and community participation is the best way to defuse opposition and build long-term acceptance, providing the greatest opportunity for clients to integrate into the daily life of the neighborhood.

The greatest risk with a high-profile approach is that it provides a flash point for the opposition to begin organizing to prevent the siting of the group home. It can also expose group home residents to public scrutiny, loss of confidentiality, and other negative effects, and because of this, the work of gaining community acceptance should begin long before residents move in.

There are, however, ways to minimize many of these risks, though they cannot be eliminated completely.

Research, Research, Research

Many who have been involved in successful sitings have emphasized the need to know the community. Utilizing neighborhood organizations, local public officials and newspaper searches, learn about the neighborhood's history and power structures. Who are the neighborhood leaders? Who are the elected representatives? Who might benefit directly from the facility, such as builders and future employees? Are there already group homes in the neighborhood? What was the community's reaction when the group home was announced? What is its current relationship?

There are two main objectives in this research: First, to identify potential supporters.[67] Neighborhood-based support can be invaluable in educating and defusing local opposition. Second, to identify what form the opposition might take.[68] Is the opposition widespread or limited to a few vocal opponents? What responses have they used in the past? Notifying the media? Pressuring local officials? Harassment? Identifying supporters and avoiding the mistakes of the past can help in strengthening ties to the community and avoiding miscommunication.

According to developer Arthur Collins, "Changing negative public perception is one of the more expensive and laborious feats of communications. It is "[b]etter to anticipate community and government issues before arguments become emotional and it becomes impossible to retreat from a difficult position. The more you know about a community's goals and concerns, the greater the opportunity to avoid confrontation altogether."[69]

It is also important to research the concerns important to the community. Be prepared with practical, credible information to dispel the myths about property values, crime, and mental illness; have a response to the neighborhood's assertions that it has its "fair share" of group homes and that it is being unfairly singled out, for example, for its racial makeup.

One ABA publication suggests that one person within the organization be designated as contact person for the community, government, and media. This ensures consistent communication, and avoids dissipating the energies of the organization.[70]

Reaching Out

Community: Successful outreach depends on open, honest, straightforward communication with the neighborhood. This will not only defuse tensions, but will build the reputation of the group home. Communication that is confused, contradictory, and erratic will give opponents little reason to believe that the home will be a well-managed asset to the community.

Though outreach can strengthen the ties between the group home and the surrounding neighborhood, it can also arouse NIMBY responses. Simply notifying the community will provide an opportunity for opponents to begin organizing ways to prevent its siting. According to one housing advocacy group, "public notification without public education only inflames public opposition."[71]

An important tool in informing and educating is the community meeting. The more successful sitings have kept meetings small and not site-specific and have made certain to include local supporters.[72] This is not to say that large meetings should be avoided as a way of silencing the community — rather, that such meetings can reduce the possibility of rational discussion by encouraging misinformation and emotional, biased responses. Neither the community nor the clients are served well by decisions made in such an atmosphere. In the experience of many advocates, and mentioned in at least one court case, large public meetings often become "platforms for 'stereotypical views,' not educated comments. . . . They can allow a vocal faction to derail the siting process, thereby entrenching fears about group home residents and undermining rational discourse and public education."[73] This lays the groundwork for future distrust and can make it more difficult for local authorities to make decisions, leaving them open to legal liability.[74] A recent study on community outreach noted that many group home administrators were relying on small meetings, finding that the larger the meetings, the greater the opposition.[75]

Instead of large meetings, then, small, face-to-face communication is more effective in allowing in-depth discussion that can address the neighborhood's concerns about group homes. A neutral location and facilitator are also recommended to allow information to flow in both

directions.[76] While local residents need opportunities to get accurate information about the facility, operators can also benefit from community suggestions to ease integration into the surrounding area.[77]

Government Officials: Local government officials play a vital role in siting a group home. These are the decision makers, who spend their days trying to balance competing interests — and it is important that they be made aware of the issues. Local representatives are often members of the community without a background in the wide range of often specialized issues involved in fair housing, and, along with the neighborhood, will often need to be the focus of education efforts.[78]

Keep in close touch with local representatives, through mail or personal visits, making them aware of the need for a facility and the benefits it brings to the community. When meeting with them, it may prove useful to bring along supporters from the neighborhood, which can help representatives avoid seeing a NIMBY response as "group home vs. neighborhood." Discussing the operator's response to neighborhood concerns can also be useful in showing a good-faith effort in working with the community, and a tour of the facility — or one like it — can also enlist local decision-makers in community education efforts.

Media: The media can be a powerful tool for getting information out about the group home, and in responding to neighbor's concerns. Maintaining a good relationship with the media will make it possible to respond to misinformation and rumors. Reporters work against deadlines — make it easy for them to keep in touch with the organization by designating one person to be on call for providing statements and other information whenever it is needed.

A guide from HomeBase makes several pragmatic, useful recommendations:

- Create a press kit that describes the organization and group home, specific community supporters, and examples of successes.
- Don't wait for the media to make the first contact. This will help in ensuring accurate information is available to the public, as well as avoiding a battlefield mentality. The project may suffer if the organization is never seen except in reaction to criticism.
- Get to know reporters. Ask about the angle of the story, find out who else has been talked to, and deal with reporters openly and honestly.[79]

After the Siting, Now What?

The group home has been established, the residents are settled in, and the program is up and running. Research shows that even in resistant neighborhoods, time will breed acceptance.[80]

However, this doesn't mean the neighborhood can now be taken for granted. There is always a possibility that incidents will occur that may arouse neighborhood concerns, especially if they happen when opposition is beginning to ease. Continuing to build a strong relationship with the community will make sure that small, isolated incidents are seen for what they are, and as accepted as the occasional quirks that invariably happen throughout the neighborhood.

Strong relationships are built on familiarity, openness, and trust — the foundations of overcoming NIMBY opposition and factors vital to maintaining good standing in the community. Some advocates believe that outreach should continue beyond the siting stage, encouraging the neighborhood to participate through open houses and other community activities, as well as keeping neighbors updated on the progress of residents and the beneficial impact of the home on the area.[81]

Some housing advocates also recommend that local community members be part of an advisory board, further strengthening the ties between the home and the neighborhood.[82]

What Not to Do

In a survey of 33 group home sitings, Michael Dear briefly summarizes several mistakes housing providers have made.[83]

- Failing to respond to rumors and misinformation. Bad information can spread quickly when the neighborhood is already fearful of group homes, and the difficulty of dispelling rumors is well established.[84]
- Failing to take into account local politics.[85] Misreading long-standing alliances and disagreements, as well as misunderstanding the difference between formal and informal power structures, can derail a project. Arthur Collins alludes to this: "community leaders — or those who perceive themselves as such will be offended, if not insulted, if they are not included in the planning process to some degree."[86] Formal power structures — elected representatives, local

councils — are only part of the picture. Consider also private citizens who have clout within a neighborhood, whether through long-term residency, networking, church organizations, political involvement, or other methods of influencing other members of the community.[87]

- Refusing to compromise, or compromising when it isn't appropriate.[88] The goal is to get the home sited and to have a good relationship with the community — compromises that can achieve these goals may be necessary. Agreeing to landscaping changes or parking arrangements are small prices to pay for a long-term successful siting. However, compromising to the extent that the home cannot operate effectively — for example, interference with the privacy of residents — is not appropriate. Such missteps can also be read as signs of weakness by those opposed to the home, and because of this will often result in escalating NIMBY responses.
- Relying on "religious and political rhetoric."[89] Arguments such as these assume a shared set of values — religious doctrine, political assumptions — which, if not shared by the audience, can alienate them and increase hostility.
- Falling victim to "ingrained intransigence," which creates distrust and suspicion built on a history of hostility. Lines are drawn in the sand, and neither side trusts the other enough to negotiate appropriate compromises.[90]
- Failing to prepare responses to accusations of improperly "targeting" a neighborhood based on its racial makeup, perceived lack of political clout or other characteristics. Group home operators should take care to make sure they carefully document that they are choosing sites based on such objective factors as housing costs and proximity to transportation and other social services.

There is no one siting approach that will work for every group home in every neighborhood. An agency needs to take into account its resources — financial, legal, and political — and those of the surrounding community so it can pursue the most effective approach in creating a long-term, positive relationship with the people nearby. Understanding the history and feel of the area will provide the most useful background for developing plans to allay fears and build trust among local residents, leading to a successful siting.

Conclusion

There are many ways to achieve a successful siting, and many ways to fail. Whether the siting is low-or high-profile, more needs to be taken into account than simply gaining a zoning variance or purchasing a property. A strategy based on open communication, community education, honesty in dealing with homeowners' concerns, and working toward a strong, long-term relationship with the neighborhood can often result in benefits for the group home and the surrounding area.

And if all else fails, it is critical to remember that the law strongly supports providers of housing for people with mental illness. Providers should not hesitate to seek legal assistance to aggressively combat illegal acts on the part of local and state governments and neighbors. A sound legal approach can pave the way not only for the project at hand but for future projects as well.

Index

Frequently Asked Questions

Q. What does Tennessee law say about zoning for my group home?

A. "For the purposes of any zoning law in Tennessee, the classification "single family residence" includes any home in which eight (8) or fewer unrelated mentally retarded, mentally handicapped or physically handicapped persons reside, and may include three (3) additional persons acting as houseparents or guardians, who need not be related to each other or to any of the mentally retarded, mentally handicapped or physically handicapped persons residing in the home." See page 7.

Q. Who can I call for help if I have a problem?

A. In Middle Tennessee, call the Tennessee Fair Housing Council at (615) 383-6155. In the rest of the state, call West Tennessee Legal Services at (731) 423-0616.

Resources

Tennessee Department of Mental Health and Developmental Disabilities. **Creating Homes Initiative Strategic Plan.**

The American Bar Association Steering Committee on the Unmet Legal Needs of Children and Commission on Homelessness and Poverty. **NIMBY: A Primer for Lawyers and Advocates.**

Schwemm, Robert G. **Housing Discrimination: Law and Litigation.**

Resource Document Series from The Campaign for New Community.
Handbooks:
Seeing People Differently: Changing Constructs of Disability and Difference.

Accepting and Rejecting Communities.

Case Studies of Successful and Unsuccessful Siting Strategies.

Community Relations: A Resource Guide.

Research Reports:
Hierarchies of Acceptance.
Building Supportive Communities.
Factors Influencing Community Acceptance: Summary of the Evidence.
The Question of Property Values.
Crime and Safety: Fact and Fiction.

Whitman, Cameron, and Susan Parnas. **Fair Housing: The Siting of Group Homes for the Disabled and Children.** A joint publication of the National League of Cities and the Coalition to Preserve the Fair Housing Act. Available at http://www.bazelon.org/cpfha/grouphomes.html

Stein & Schonfield, Bazelon Center for Mental Health Law. **Digest of Cases and Other Resources on Fair Housing for People with Disabilities.**

The Fair Housing Act
http://www.fairhousing.com/legal_research/fha/

The National League of Cities
http://www.nlc.org/

The Building Better Communities Network
http://www.bettercommunities.org

National Fair Housing Advocate Online
http://www.fairhousing.com

GCA Strategies
http://www.gcastrategies.com

Bazelon Center for Mental Health Law
http://www.bazelon.org

Notes

1. Tennessee Department of Mental Health and Developmental Disabilities, Creating Homes Initiative Strategic Plan, 1 (2001).

2. *See especially* City of Cleburne v. Cleburne Living Center, Inc., 473 U.S. 432 (1985).

3. Pub. L. 100-430, 102 Stat. 1619 (1988). The legislative history of the Act makes extensive reference to the City of Cleburne case.

4. 42 U.S.C. §§ 3601 et seq. The act now prohibits discrimination on the basis of race, color, national origin, religion, sex, disability and familial status.

5. 42 U.S.C. § 3602 (h).

6. 42 U.S.C. § 3603 (f)(3)(B).

7. Robert G. Schwemm, Housing Discrimination: Law and Litigation 11-71 (2000).

8. *Id.*

9. *See especially* City of Edmonds v. Oxford House, Inc., 514 U.S. 725 (1995). This case will be discussed in more detail in the text below.

10. *See, e.g.,* N.J. Rooming & Boarding House Owners v. Asbury Park, 152 F.3d 217 (3d Cir. 1998); U.S. v. City of Chicago Heights, 2001 U.S. Dist. LEXIS 3533 (N.D. Ill. 2001).

11. *Id.*

12. *Id.*

13. *See, e.g.*, Hill v. The Community of Damien of Molokai, 911 P.2d 861 (N.M. 1996); Martin v. Constance, 843 F.Supp. 1321 (E.D. Mo. 1994).

14. 514 U.S. 725 (1995).

15. In its promotional materials, Oxford House describes itself as "a concept in recovery from drug and alcohol addiction. In its simplest form, an Oxford House describes a democratically run, self-supporting and drug-free group home." Published on the Internet at http://www.oxfordhouse.org. People recovering from addictions to controlled substances are considered "handicapped" under the Fair Housing Act. 24 C.F.R. § 100.201(d).

16. 514 U.S. at 733.

17. *Id.* at 736.

18. 819 F. Supp. 1179 (E.D.N.Y. 1993).

19. 37 F.3d 1230 (7th Cir. 1994).

20. *Id.* at 1234.

21. *Id.*

22. Hovsons, Inc., v. Township of Brick, 89 F.3d 1096 (3d Cir. 1996).

23. *See, e.g.*, Larkin v. State of Michigan, 89 F.3d 285 (6th Cir. 1996). But *see* Familystyle of St. Paul v. City of St. Paul, Minnesota, 923 F.2d 91 (8th Cir. 1991) (holding that St. Paul's dispersion requirements were permissible because they promoted community integration instead of segregation and clustering. This is clearly the minority view.).

24. 46 F.3d 1491 (10th Cir. 1995).

25. *Id.* at 1503.

26. 42 U.S.C. 3604(f)(9).

27. 8 F. Supp. 2d 408 (D. N.J. 1998).

28. 974 F.2d 43 (6th Cir. 1992).

29. Tennessee is in the Sixth Circuit, so federal trial courts in Tennessee are bound by the decision.

30. *Id.* at 46-48.

31. *Id.* at 48.

32. *Id.* at 47.

33. *See, e.g.,* Potomac Group Home v. Montgomery County, 823 F. Supp. 1285 (D. Md. 1993); Proviso Association of Retarded Citizens v. Village of Westchester, Ill., 914 F. Supp. 1555 (N.D. Ill. 1996); Alliance for the Mentally Ill v. City of Naperville, 923 F. Supp. 1057 (N.D. Ill. 1996).

34. 843 F. Supp. 1321 (E.D. Mo. 1994). *See also*, e.g., Hill v. The Community of Damien of Molokai, 911 P.2d 861 (N.M. 1996); Broadmoor San Clemente Homeowners Ass'n v. Nelson, 30 Cal. Rptr.2d 316 (Cal. App. 1994); Deep East Regional Mental Health and Mental Retardation Services v. Kinnear, 877 S.W.2d 550.

35. 24 C.F.R. 100.80 (b)(3).

36. *See, e.g.,* White v. Lee, 27 F.3d 1214 (9th Cir. 2000).

37. Tenn. Code Ann. §13-24-102.

38. Tenn. Code Ann. §13-24-103.

39. Tenn. Code Ann. §13-24-104.

40. 640 S.W.2d 13 (Tenn. App. 1982).

41. *Id.* at 17.

42. *Id.*

43. *Id.* at 18.

44. *Id.*

45. Rabkin, J. *Opinions about Mental Illness: A Review of the Literature*, 77 Psychological Bulletin 153-171 (1972), *cited in* Michael Dear and Robert Wilton, Crime & Safety: Fact & Fiction 3 (undated manuscript).

46. Daniel Lauber, Impacts on the Surrounding Neighborhood of Group Homes for Persons with Developmental Disabilities. Report prepared for the Governor's Planning Council on Developmental Disabilities. (1986) *cited in* Peter F. Colwell, Carolyn A. Dehring, and Nicholas A. Lash, *The Effect of Group Homes on Neighborhood Property Values*, Land Economics 617 (November 2000). A summary of the Colwell/Dehring/Lash study appears online at the Internet web site of the Real Estate Counseling Group of America: http//www.recga.com/newsletter.html.

47. Community Residences Information Services Program (CRISP), There Goes the Neighborhood (1990).

48. See Robert L. Schonfeld, *"Five-Hundred-Year Flood Plains" and Other Unconstitutional Challenges to the Establishment of Community Residences for the Mentally Retarded*, 1 XVI Fordham Urban Law Journal (1988).

49. Colwell, Dehring, Lash, *supra* note 46, at footnote 3, 619.

50. Greater Baltimore Community Housing Resource Board, Inc., *On Residential Property Values in Baltimore County, Maryland* (December 1993) at http://www.gbchrb.org/grphomes.htm.

51. William A. McConnell, Ph.D., and Ralph Catalano, *A Challenge for the Field: The Association Between Violence and Mental Illness*, Behavioral Healthcare Tomorrow, June 2001 16, 39.

52. *Id.* At 16.

53. DEAR AND WILTON, *supra* note 45, at 4.

54. McConnell and Catalano, *supra* note 51, at 18.

55. Schonfeld, *supra* note 48.

56. CRISP, *supra* note 47.

57. LAUBER, *supra* note 46.

58. Myra Piat, *The NIMBY Phenomenon: Community Residents' Concerns about Housing for Deinstitutionalized People*, 25 HEALTH AND SOCIAL WORK (May 2000).

59. *Id.*

60. Diana Antos Arens, *What do the neighbors think now? Community residences on Long Island, New York,* 29 COMMUNITY MENTAL HEALTH JOURNAL (June 1993).

61. Otto Wahl, *Community impact of group homes for mentally ill adults*. 29 COMMUNITY MENTAL HEALTH JOURNAL (June 1993).

62. For example, the National League of Cities and the Coalition to Preserve the Fair Housing Act "agree on the importance of [local government officials and advocates] working together to educate existing neighbors and other stakeholders about the housing needs of people with disabilities, and the extent to which group homes fill a portion of this need." CAMERON WHITMAN AND SUSAN PARNAS, FAIR HOUSING: THE SITING OF GROUP HOMES FOR THE DISABLED AND CHILDREN 12 (1999), available at http://www.bazelon.org/cpfha/grouphomes.html.

63. *Id.* This guide for local officials was a joint publication of the National League of Cities and the Coalition to Preserve the Fair Housing Act; their points of agreement and disagreement are clearly defined throughout the document.

64. Michael Dear, *Understanding and overcoming the NIMBY syndrome*, 58 JOURNAL OF THE AMERICAN PLANNING ASSOCIATION (Summer 1992).

65. WHITMAN AND PARNAS, *supra* note 62, at 16.

66. Dear, *supra* note 64.

67. Arthur Collins II, *Mixing NIMBY and ensuring development approval*, 46 REAL ESTATE WEEKLY (November 3, 1999); AMERICAN BAR ASSOCIATION STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN AND COMMISSION ON HOMELESSNESS AND POVERTY, NIMBY: A PRIMER FOR LAWYERS AND ADVOCATES (1999).

68. *Id.*

69. Collins, *supra* note 67.

70. American Bar Association, *supra* note 67, at 17.

71. Whitman and Parnas, *supra* note 62, at 12.

72. American Bar Association, *supra* note 67, at 26; GCA Strategies at http://www.gcastrategies.com; Whitman and Parnas, *supra* note 62.

73. Whitman and Parnas, *supra* note 62, at 35, footnote 63.

74. *Id.*

75. Allison Zippay, *Establishing group housing: Community outreach methods*, 23 Administration in Social Work (Summer 1999).

76. American Bar Association, *supra* note 67.

77. Dear, *supra* note 64.

78. American Bar Association, *supra* note 67.

79. HomeBase / The Center for Common Concerns. BUILDING INCLUSIVE COMMUNITY: TOLLS TO CREATE SUPPORT FOR AFFORDABLE HOUSING (1996), *cited in* American Bar Association, *supra* note 67.

80. Arens, *supra* note 60; Wahl, *supra* note 61; Dear, *supra* note 64.

81. American Bar Association, *supra* note 67, at 32.

82. *Id.*

83. MICHAEL DEAR, CASE STUDIES OF SUCCESSFUL AND UNSUCCESSFUL SITING STRATEGIES (undated).

84. *Id.*

85. *Id.*

86. Collins, *supra* note 67.

87. American Bar Association, *supra* note 67.

88. Dear, *supra* note 83.

89. *Id.*

90. *Id.*

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